

REMARKS

Favorable reconsideration of this application, in light of the preceding amendments and following remarks, is respectfully requested.

Claims 1, 2, 4, 6, 8, 9, 12, 14 and 16-21 are pending in this application. Claims 3, 5, 7, 10, 11, 13 and 15 having been cancelled by this amendment without prejudice of the subject matter contained therein.

Examiner Interview

Initially, Applicants wish to thank the Examiner for the courtesies extended to Applicants' representative during the telephonic interview of September 2, 2009. The parties discussed the 35 U.S.C. § 103(a) rejection and more specifically the Examiners assertion that Emeott teaches the physical structure of the control channel being selected based on a user transmission mode where the transmission mode is based on the transmission mode the user is in for scheduling an uplink. The parties were unable to agree as to this matter.

However, the parties were able to agree to an amendment that the Examiner agreed places this application in condition for allowance without a further search. The Examiner agreed that the subject matter of claims 3, 5 and 7 together include allowable subject matter if incorporated into claim 1. Similarly claims 11, 13 and 15 include allowable subject matter if incorporated into claim 9. The parties also agreed that claim 20 will be allowable if the subject matter from the above claims is amended into claim 20.

Applicants have amended claims 1, 9 and 20 as agreed placing the claims in condition for allowance. Allowance of the pending claims is respectfully requested.

Applicants also respectfully note that no Interview Summary was issued by the Examiner or received by the Applicant.

Foreign Priority

Applicants respectfully note that the present action does not indicate that the claim to foreign priority under 35 U.S.C. §119 has been acknowledged or that certified copies of all priority documents have been received by the U.S.P.T.O. Applicants respectfully request that the Examiner's next communication include an indication as to the claim to foreign priority under 35 U.S.C. §119 and an acknowledgement of receipt of the certified copies of all priority documents.

Drawings

Applicants also respectfully note the present action indicates that the drawings have been accepted by the Examiner.

Rejections under 35 U.S.C. § 103

Kadaba/Emeott

Claims 1-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over US 2002/0172217 to Kadaba et al. (Kadaba), in view of US 5,721,732 to Emeott et al. (Emeott). Applicants respectfully traverse this rejection for the reasons detailed below.

As discussed above with regard to the Examiner interview, Applicants have amended claims 1, 9 and 20, as agreed upon, placing the claims in condition for allowance. Claims 2, 4, 6, 8, 12, 14, 16-19 and 21 are allowable at least by virtue of their dependency from an allowable base claim.

The Applicants, therefore, respectfully request reconsideration and withdrawal of the rejection to claims 1, 2, 4, 6, 8, 9, 12, 14 and 16-21 under 35 U.S.C. § 103(a). Claims 3, 5, 7, 10, 11, 13 and 15 having been cancelled.

CONCLUSION

In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a two (2) month extension of time for filing a reply to the outstanding Office Action and submit the required \$490.00 extension fee herewith.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By

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